

**SA 2106.** Mr. RUBIO (for himself, Mr. CARDIN, and Mr. BARRASSO) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II of division E, add the following:

**Subtitle C—South China Sea and East China Sea Sanctions Act**

**SEC. 5221. SHORT TITLE.**

This subtitle may be cited as the “South China Sea and East China Sea Sanctions Act of 2021”.

**SEC. 5222. SANCTIONS WITH RESPECT TO CHINESE PERSONS RESPONSIBLE FOR CHINA'S ACTIVITIES IN THE SOUTH CHINA SEA AND THE EAST CHINA SEA.**

(a) **INITIAL IMPOSITION OF SANCTIONS.**—On and after the date that is 120 days after the date of the enactment of this Act, the President may impose the sanctions described in subsection (b) with respect to any Chinese person, including any senior official of the Government of the People's Republic of China, that the President determines—

(1) is responsible for or significantly contributes to large-scale reclamation, construction, militarization, or ongoing supply of outposts in disputed areas of the South China Sea;

(2) is responsible for or significantly contributes to, or has engaged in, directly or indirectly, actions, including the use of coercion, to inhibit another country from protecting its sovereign rights to access offshore resources in the South China Sea, including in such country's exclusive economic zone, consistent with such country's rights and obligations under international law;

(3) is responsible for or complicit in, or has engaged in, directly or indirectly, actions that significantly threaten the peace, security, or stability of disputed areas of the South China Sea or areas of the East China Sea administered by Japan or the Republic of Korea, including through the use of vessels and aircraft by the People's Republic of China to occupy or conduct extensive research or drilling activity in those areas;

(4) has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to, or in support of, any person subject to sanctions pursuant to paragraphs (1), (2), or (3); or

(5) is owned or controlled by, or has acted for or on behalf of, directly or indirectly, any person subject to sanctions pursuant to paragraph (1), (2), or (3).

(b) **SANCTIONS DESCRIBED.**—The sanctions that may be imposed with respect to a person described in subsection (a) are the following:

(1) **BLOCKING OF PROPERTY.**—The President may, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the person if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(2) **INELIGIBILITY FOR VISAS, ADMISSION, OR PAROLE.**—

(A) **VISAS, ADMISSION, OR PAROLE.**—In the case of an alien, the alien may be—

(i) inadmissible to the United States;

(ii) ineligible to receive a visa or other documentation to enter the United States; and

(iii) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(B) **CURRENT VISAS REVOKED.**—

(i) **IN GENERAL.**—An alien described in subparagraph (A) may be subject to revocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

(ii) **IMMEDIATE EFFECT.**—A revocation under clause (i) may—

(I) take effect immediately; and

(II) cancel any other valid visa or entry documentation that is in the alien's possession.

(3) **EXCLUSION OF CORPORATE OFFICERS.**—The President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to exclude from the United States, any alien that the President determines is a corporate officer or principal of, or a shareholder with a controlling interest in, the person.

(4) **EXPORT SANCTION.**—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to the person under—

(A) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(B) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(5) **INCLUSION ON ENTITY LIST.**—The President may include the entity on the entity list maintained by the Bureau of Industry and Security of the Department of Commerce and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, for activities contrary to the national security or foreign policy interests of the United States.

(6) **BAN ON INVESTMENT IN EQUITY OR DEBT OF SANCTIONED PERSON.**—The President may, pursuant to such regulations or guidelines as the President may prescribe, prohibit any United States person from investing in or purchasing equity or debt instruments of the person.

(7) **BANKING TRANSACTIONS.**—The President may, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the person.

(8) **CORRESPONDENT AND PAYABLE-THROUGH ACCOUNTS.**—In the case of a foreign financial institution, the President may prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by the foreign financial institution.

(c) **EXCEPTIONS.**—

(1) **INAPPLICABILITY OF NATIONAL EMERGENCY REQUIREMENT.**—The requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) shall not apply for purposes of subsection (b)(1).

(2) **EXCEPTION FOR INTELLIGENCE, LAW ENFORCEMENT, AND NATIONAL SECURITY ACTIVITIES.**—Sanctions under this section shall not apply to any authorized intelligence, law enforcement, or national security activities of the United States.

(3) **COMPLIANCE WITH UNITED NATIONS HEADQUARTERS AGREEMENT.**—Paragraphs (2) and (3) of subsection (b) shall not apply if admission of an alien to the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success, June 26, 1947, and entered into force, November 21, 1947, between the United Nations and the United States.

(4) **EXCEPTION RELATING TO IMPORTATION OF GOODS.**—

(A) **IN GENERAL.**—The authority or a requirement to impose sanctions under this section shall not include the authority or a requirement to impose sanctions on the importation of goods.

(B) **GOOD DEFINED.**—In this paragraph, the term “good” means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

(d) **IMPLEMENTATION; PENALTIES.**—

(1) **IMPLEMENTATION.**—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(2) **PENALTIES.**—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under subsection (b)(1) to the same extent that such penalties apply to a person that commits an unlawful act described in subsection (a) of such section 206.

(e) **DEFINITIONS.**—In this section:

(1) **ACCOUNT; CORRESPONDENT ACCOUNT; PAYABLE-THROUGH ACCOUNT.**—The terms “account”, “correspondent account”, and “payable-through account” have the meanings given those terms in section 5318A of title 31, United States Code.

(2) **ALIEN.**—The term “alien” has the meaning given that term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(3) **CHINESE PERSON.**—The term “Chinese person” means—

(A) an individual who is a citizen or national of the People's Republic of China; or

(B) an entity organized under the laws of the People's Republic of China or otherwise subject to the jurisdiction of the Government of the People's Republic of China.

(4) **FINANCIAL INSTITUTION.**—The term “financial institution” means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (M), (N), (P), (R), (T), (Y), or (Z) of section 5312(a)(2) of title 31, United States Code.

(5) **FOREIGN FINANCIAL INSTITUTION.**—The term “foreign financial institution” has the meaning given that term in section 1010.605 of title 31, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(6) **PERSON.**—The term “person” means any individual or entity.

(7) **UNITED STATES PERSON.**—The term “United States person” means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States;

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity; or

(C) any person in the United States.

**SEC. 5223. PROHIBITION AGAINST DOCUMENTS PORTRAYING THE SOUTH CHINA SEA OR THE EAST CHINA SEA AS PART OF CHINA.**

The Government Publishing Office should not publish any map, document, record, electronic resource, or other paper of the United States (other than materials relating to hearings held by committees of Congress or internal work product of a Federal agency) portraying or otherwise indicating that it is the position of the United States that the territory or airspace in the South China Sea that is disputed among two or more parties or the territory or airspace of areas administered by Japan or the Republic of Korea, including in the East China Sea, is part of the territory or airspace of the People's Republic of China.

**SEC. 5224. AUTHORIZATION TO PROHIBIT CERTAIN ASSISTANCE TO COUNTRIES THAT RECOGNIZE CHINESE SOVEREIGNTY OVER THE SOUTH CHINA SEA OR THE EAST CHINA SEA.**

(a) **PROHIBITION.**—Except as provided by subsection (c) or (d), no amounts should be obligated or expended to provide foreign assistance to the government of any country identified in a report required by subsection (b) during the 3-year period beginning on the date of the enactment of this Act.

(b) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, and annually thereafter until the date that is 3 years after such date of enactment, the Secretary of State shall submit to the appropriate committees of Congress a report identifying each country that the Secretary determines has taken an official and stated position to recognize, after such date of enactment, the sovereignty of the People's Republic of China over territory or airspace disputed by one or more countries in the South China Sea or the territory or airspace of areas of the East China Sea administered by Japan or the Republic of Korea.

(2) **FORM.**—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex if the Secretary of State determines it is necessary for the national security interests of the United States to do so.

(3) **PUBLIC AVAILABILITY.**—The Secretary of State shall publish the unclassified part of the report required by paragraph (1) on a publicly available website of the Department of State.

(c) **EXCEPTION.**—This section shall not apply with respect to—

(1) Taiwan;

(2) counterterrorism, counter-narcotics, or law enforcement activities; or

(3) global health, democracy, cybersecurity, humanitarian, disaster, or emergency food assistance.

(d) **WAIVER.**—The President may waive the application of subsection (a) with respect to the government of a country if the President determines that the waiver is in the national interests of the United States.

(e) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Financial Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

**SA 2107.** Mr. PETERS submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr.

SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, on line 20, insert “Appointment as a program director under this section shall be voluntary.” after “tor.”

Beginning on page 113, strike line 24 and all that follows through line 3 on page 115 and insert the following:

(3) **DIRECT HIRE AUTHORITY.**—

(A) **IN GENERAL.**—During fiscal year 2021 and any fiscal year thereafter, the head of any Federal agency may appoint, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303, 3304(b), and 3328 of that title, a qualified candidate described in subparagraph (B) directly to a position in the competitive service with the Federal agency for which the candidate meets Office of Personnel Management qualification standards.

(B) **FELLOWSHIP OR TEMPORARY ROTATIONAL POSTING.**—Subparagraph (A) applies with respect to a former recipient of an award under this subsection who—

(i) earned a doctoral degree in a STEM field from an institution of higher education; and

(ii) successfully fulfilled the requirements of the fellowship or temporary rotational posting within a Federal agency.

(C) **LIMITATION.**—The direct hire authority under this paragraph shall be exercised with respect to a specific qualified candidate not later than 2 years after the date that the candidate completed the requirements related to the fellowship or temporary rotational posting described under this subsection.

(D) **NUMBER.**—The number of employees appointed and retained by the Federal Government under this paragraph shall not exceed 10 at any time.

Strike section 2204 and insert the following:

**SEC. 2204. PERSONNEL MANAGEMENT AUTHORITIES FOR THE FOUNDATION.**

(a) **STUDY.**—Not later than 30 days after the date of enactment of this division, the Director shall contract with the National Academy of Public Administration to conduct a study on the organizational and management structure of the Foundation, to—

(1) evaluate and make recommendations to efficiently and effectively implement the Directorate for Technology and Innovation;

(2) evaluate and make recommendations to ensure coordination of the Directorate for Technology and Innovation with other directorates and offices of the Foundation and other Federal agencies; and

(3) make recommendations for the management of the Foundation's business and personnel practices, including implementation of the new hiring authorities and program director authorities provided in section 2103.

(b) **REVIEW.**—Upon completion of the study under paragraph (1), the Foundation shall review the recommendations from the National Academy of Public Administration and provide a briefing to Congress on the plans of the Foundation to implement any such recommendations.

Strike section 2665 and insert the following:

**SEC. 2665. APPOINTMENT AND COMPENSATION PILOT PROGRAM.**

(a) **DEFINITION OF COVERED PROVISIONS.**—In this section, the term “covered provisions” means the provisions of title 5, United States Code, other than—

- (1) section 2301 of that title;
- (2) section 2302 of that title;
- (3) chapter 33 of that title;
- (4) chapter 71 of that title;
- (5) chapter 72 of that title; and
- (6) chapter 73 of that title.

(b) **ESTABLISHMENT.**—There is established a 3-year pilot program under which, notwithstanding section 20113 of title 51, United States Code, the Administrator may, with respect to not more than 3,000 designated personnel—

(1) appoint and manage such designated personnel of the Administration, without regard to the covered provisions; and

(2) fix the compensation of such designated personnel of the Administration, without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, at a rate that does not exceed the per annum rate of salary of the Vice President of the United States under section 104 of title 3, United States Code.

(c) **ADMINISTRATOR RESPONSIBILITIES.**—In carrying out the pilot program established under subsection (b), the Administrator shall ensure that the pilot program—

(1) uses—

(A) state-of-the-art recruitment techniques;

(B) simplified classification methods with respect to personnel of the Administration; and

(C) broad banding; and

(2) offers—

(A) competitive compensation; and

(B) the opportunity for career mobility.

(d) **REPORT.**—Not later than 2 years after the date of the enactment of this division, the Administrator shall submit to the appropriate committees of Congress a report that—

(1) describes in detail—

(A) the use of the pilot program hiring authority under this section, including pay, qualifications, and classification of individuals hired under such authority;

(B) the methods for recruitment under the program; and

(C) efforts being made by the NASA to address any compensation equity issue that may arise as a result of the program;

(2) analyzes the impact of the program on participants, disaggregated by demographic factors including age, race, ethnicity, gender, education, compensation, and job classification;

(3) compares the demographics of the program participants with the demographics of NASA employees outside the program;

(4) assesses the morale and engagement of the NASA workforce participating in the program, as compared to the morale and engagement of the NASA workforce outside the program; and

(5) makes recommendations with respect to the continuation, modification, or permanent codification of the program.

Strike section 2669 and insert the following:

**SEC. 2669. SEPARATIONS AND RETIREMENT INCENTIVES.**

(a) **VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**—

Subchapter II of chapter 35 of title 5, United States Code, is amended—

(1) in section 3521—

(A) by striking paragraph (1) and inserting the following:

“(1) ‘agency’—

“(A) means an Executive agency as defined under section 105 (other than the Government Accountability Office); and